

# **NPDES Permitting 101 for Cook Inlet Tribes**

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# NPDES

- National Pollutant Discharge Elimination System
- Section 402 of the Clean Water Act

# NPDES Permitting

- It is a license....
  - Issued by the EPA or a state or tribe (through authorization)
  - Granting permission to discharge
- Controls point source discharge of pollutants into waters of the US
- A permit is a privilege not a right



## Point Source

- means any discernable, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged.

# Pollutant

- means dredged spoil, solid waste, incinerator residue, filter backwash, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water

# Waters of the US

# Technology-based Effluent Limitations

- Purpose
  - Establish minimum level of pollutant controls for all point source dischargers
    - Non-conventional pollutants
    - Conventional pollutants
    - Toxic pollutants
  - Provide equity among dischargers within categories
- Implemented in NPDES Permit



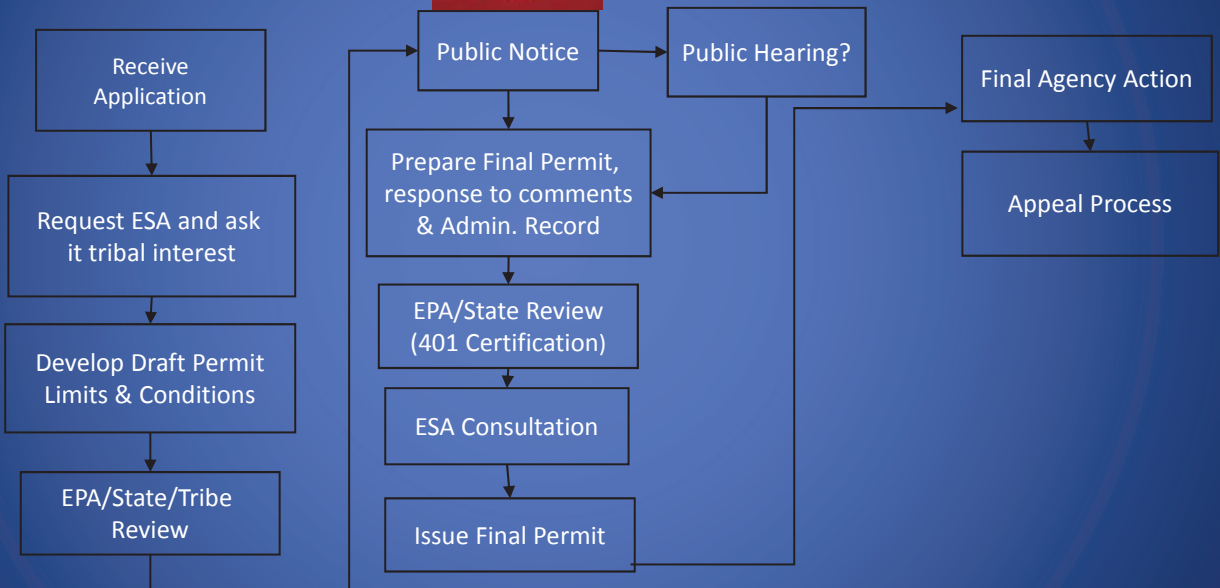
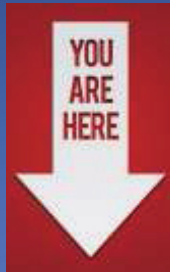
## Water Quality-based Effluent Limitations

- Water quality based limitations are used when it has been determine that more stringent limits than technology-based effluent limits must be applied to a discharge in order to protect the “designated use” of the receiving water.



# Permit

# Process



# **EPA Tribal Consultation Policy**

## **The Consultation Process**

- **Identification Phase**
- **Notification Phase**
- **Input Phase**
- **Follow-up Phase**

# COMMUNITY INVOLVEMENT

DEVELOP SOUND PERMITS BASED ON LOCAL  
CONDITIONS BY INVOLVING TRIBES & COMMUNITIES

DEC provides resources to facilitate early & effective  
involvement

- ✓ Permit Issuance Plan
- ✓ Early Notification Letters
- ✓ Public Notice
- ✓ Tribal Communication Protocol
- ✓ Tribal Website
- ✓ Guidance documents
- ✓ Supplemental process
- ✓ Technical assistance



# NOTIFICATIONS



## ✓ EARLY NOTIFICATION

- ✓ Sent to potentially affected tribes and municipalities
  - ✓ Details applicant, potential discharge, & receiving waters
- ✓ Can provide information for permit development

## ✓ PUBLIC NOTICE

- ✓ Mailed to potentially affected local & tribal governments
- ✓ Advertised in newspapers
- ✓ Posted online



## ✓ POTENTIAL ADDITIONAL NOTIFICATIONS

- ✓ 10-day preliminary draft applicant review
- ✓ 5-day proposed final applicant review

# COMMENTING

INFORM THE AGENCY OF ADDITIONAL  
CONSIDERATIONS, PROVIDE GENERAL  
FEEDBACK, CORRECT ERRORS OR OMISSIONS

- ✓ Substantive comments
  - ✓ Is information accurate?
  - ✓ Are assumptions and methodology adequate?
  - ✓ Is there other relevant information to consider?
  - ✓ Do changes need to be made?
- ✓ Out of scope comments
  - ✓ Beyond the authority of the agency
  - ✓ Out of the project scope
  - ✓ Opinions or perceptions
  - ✓ Generally speculative



# SUBSTANTIVE COMMENTS

## POTENTIAL TO IMPACT DEVELOPMENT OF FINAL PERMIT

- ✓ Applicability of regulations
- ✓ Typographical, calculative, or factual corrections
- ✓ Observations about facility or receiving water
- ✓ New studies or research
- ✓ Potentially affected local uses
- ✓ Issues regarding discharge location and timing



# SUBSTANTIVE COMMENTS

## HELPFUL HINTS

- ✓ Clear and concise statements or questions
- ✓ Cite permit or regulation where applicable
- ✓ On topic/scope and within authority
- ✓ Solution oriented



# FINAL PERMIT

Agencies will respond to the comments received on the general permits

Draft Permits will be revised into the Final Permits

ODCE will be finalized

ESA Consultation will be completed (EPA)

Tribal Consultation will be completed (EPA)

DEC will provide 5-day review

DEC and EPA General Permits will be issued

Each Agency has its own appeals process

**OCS**

## **Outer Continental Shelf**

- Federal Waters
- State Waters

## Federal Waters

- > 3 miles offshore – outside of baseline
- State does not certify NPDES permits exclusive for this area or certify the portions of a broader permit that covers this area plus additional area because State WQS do not apply

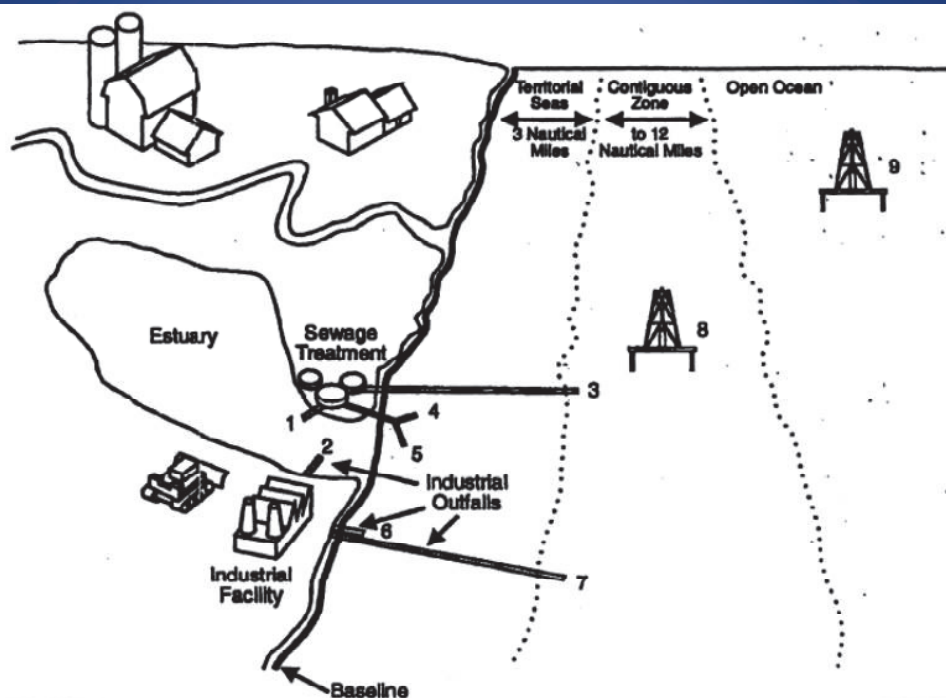
# State Waters

- Less than 3 miles offshore
- Inside the baseline

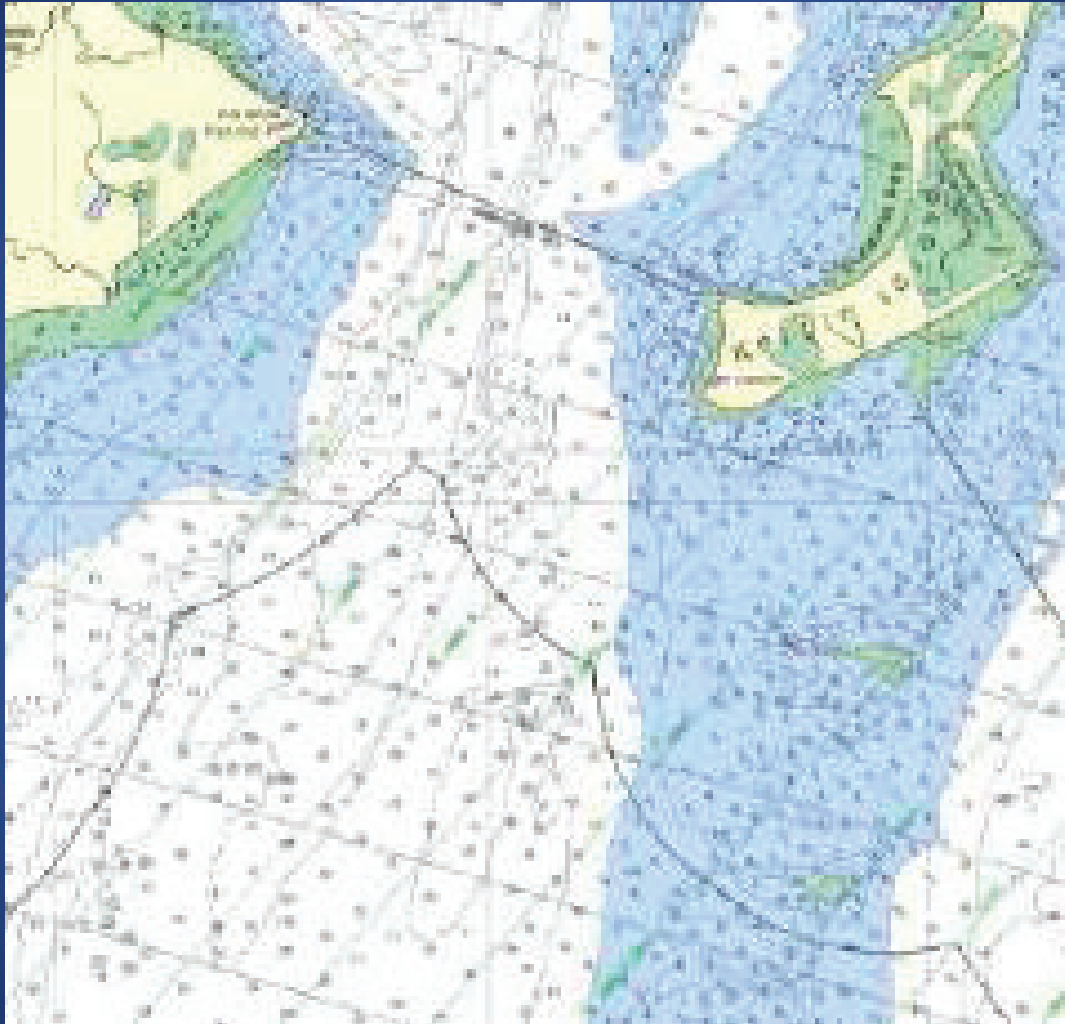
# Evaluation of Impacts

- 40 CFR 125 Subpart M  
Ocean Discharge Criteria
- EPA must make a determination that a discharge will not cause unreasonable degradation of the marine environment
- Ocean Discharge Criteria Evaluation (ODCE) is developed for this purpose

EPA 842-B-94-003  
March 1994



Section 403 requirements apply only to point source discharges beyond the baseline of the territorial sea (represented in Figure 2-1 with a heavy black line). This limits the number of land-based discharges subject to section 403. For example, only the discharges numbered 3 through 9 in Figure 2-1 would be subject to the provisions of section 403.





## ODCE

### Unreasonable Degradation

- Significant adverse changes in ecosystem diversity, productivity, and stability of the biological community within the area of discharge and surrounding biological communities
- Threat to human health through direct exposure to pollutants or through consumption of exposed aquatic organisms
- Loss of aesthetic, recreational, scientific, or economic values, which are unreasonable in relation to the benefit derived from the discharge

## Discharges covered by Cook Inlet GPs (Exploration only)

- 001 Drilling Fluids and Drilling Cuttings
- 002 Deck Drainage
- 003 Sanitary Wastes
- 004 Domestic Wastes
- 005 Desalination Unit Wastes
- 006 Blowout Preventer Fluid
- 007 Boiler Blowdown
- 008 Fire Control System Test Water
- 009 Non-contact Cooling Water
- 010 Uncontaminated Ballast Water
- 011 Bilge Water
- 012 Excess Cement Slurry
- 013 Mud, Cuttings, Cement at Seafloor
- 014 Test Fluids (state permit only)

